



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable John C. Marburger
County Attorney
Fayette County
La Grange, Texas

Dear Sir:

Opinion No. 0-3306

Re: Is there a violation of
the Nepotism Law in the
purchase of insurance
on the county buildings
by a commissioners' court
from an agent whose wife
is a deputy county district
clerk?

Your request for an opinion dated March 19, 1941,
has been received by this department and considered. We quote
from your request:

"Please give me your opinion on the fol-
lowing question immediately:

"May the Commissioners Court legally
purchase insurance on the public buildings,
etc. of the county from an insurance agent
whose wife happens to be the deputy County
Clerk of the county?"

"There seems to be some contention that
the Commissioners Court would not be author-
ized to purchase this insurance from this
insurance man, since his wife is a deputy
County Clerk and receives her pay as such.

"It seems to me that there is no pro-
hibition of any kind which would prevent the
purchase of such insurance from this insurance
salesman. It certainly is not a violation of
the provision of our Nepotism law (Articles
432-438 P. C.), nor any other statutory law

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or judicial ruling of this state. I have been unable to find any direct authorities on this point, but it is my opinion that the Commissioners Court could legally purchase insurance for buildings and property belonging to the county even though the wife of such insurance salesman is a deputy County Clerk."

Article 432, Penal Code of Texas, reads as follows:

"No officer of this State or any officer of any district, county, city, precinct, school district, or other municipal subdivision of this State, or any officer or member of any State, district, county, city, school district or other municipal board, or judge of any court, created by or under authority of any general or special law of this State, or any member of the Legislature, shall appoint, or vote for, or confirm the appointment to any office, position, clerkship, employment or duty, of any person related within the second degree by affinity or within the third degree by consanguinity to the person so appointing or so voting, or to any other member of any such board, the Legislature, or court of which such person so appointing or voting may be a member, when the salary, fees, or compensation of such appointee is to be paid for, directly or indirectly, out of or from public funds or fees of office of any kind or character whatsoever."

From the facts given in your request, we are of the opinion that the agent and the members of the commissioners' court are not prohibited by the terms of the Nepotism Law of the State of Texas from entering into a contract for the purchase of insurance to cover county buildings. Neither do we think that there is any prohibition under the Nepotism Law that the wife of the agent is a deputy county clerk of the county.

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We trust that we have fully answered your inquiry.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Harold McCracken*
Harold McCracken
Assistant

HM:RS

RECEIVED MAR 28, 1941

Gerard B. Mann
ATTORNEY GENERAL OF TEXAS

